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Volet Emile International Business Machines Corporation Intellectual Property Law Department 11400 Burnet Road, Internal Zip 4054 Austin, TX 78758				NGUYEN, TRI V
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/899,453

Filing Date: July 05, 2001

Appellant(s): MCBREARTY ET AL.

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J. B. Kraft  
For Appellants

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 07/28/2008 appealing from the Office action mailed 09/19/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,405,175                    NG                    06-2002

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

1.        Claims 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitations of Claim 19 do not further limit the subject matter of Claim 13.

Claim 20 is dependent on Claim 19 and inherits the same deficiency.

2.        Claims 1, 3-5, 7, 9-11, 13, 15-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ng.

Claim 1: Ng discloses in a World Wide Web (Web) communication network with user access through a plurality of data processor controlled user interactive receiving display stations, a system for buying products offered from Web sites comprising:

- a.        means at a receiving display station for displaying a Web page accessed from a Web site (col 5, lines 27-36 and Fig 2, element 40);
- b.        means for selecting a product offered for sale from said Web page (col 3, lines 44-49; col 8, lines 36-45; col 11, lines 2-20; col 15, lines 25-30 and Fig 2);  
but does not explicitly disclose
- c.        means for storing at said receiving station, a set of predetermined search queries respectively to each of a set of Web database sites for data related to attributes of a selected product; and

d. means responsive to a selection of a product for automatically sending said search queries to said Web database sites wherein a purchase profile of the product.

Ng discloses downloading a special scout browser with optimization functions at receiving station (col 15, lines 61-63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Ng, with the means for storing the search queries at the receiving station since it was known in the art that storing information at the receiving station is used to provide an optimization of the retrieval of the information on a network by locally caching the information. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

Furthermore, Ng discloses the feature of iteratively displaying the search queries (col 11, lines 2-20) and the use automatically retrieving information (col 6, lines 52-62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Ng, with automatically sending the search queries upon selection of a product since it was known in the art that storing information at the receiving station is used to provide an optimization of the retrieval of the information on a network and enhance the web browsing experience of the users.

Claim 3: Ng discloses the Web system for buying products of claim 1 wherein one of said search queries is sent to a database Web site providing data on the quality of the Web sites offering products (col 8, lines 64-67 and col 10, lines 2-47).

Claim 4: Ng discloses the Web system for buying products of claim 1 wherein one of said search queries is sent to a database Web site providing data on the quality of the selected product (col 17, lines 57-67 and col 18, lines 1-34).

Claim 5: Ng discloses the Web system for buying products of claim 1 wherein one of said search queries is sent to a database Web site providing data on the comparative

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price of the selected product at a plurality of Web sites offering the product (col 5, lines 27-34; col 6, lines 64-67; col 7, line 1 and col 7, line 15-21).

Claim 7: Ng discloses in a Web communication network with user access through a plurality of data processor controlled user interactive receiving display stations, a method for buying products offered from a plurality of Web sites comprising:

- a. displaying a Web page accessed from a Web site at a receiving display station (col 5, lines 27-36 and Fig 2, element 40);
- b. selecting a product offered for sale from said Web page (col 3, lines 44-49; col 8, lines 36-45; col 11, lines 2-20; col 15, lines 25-30 and Fig 2);  
but does not explicitly disclose
- c. storing at said receiving station, a set of predetermined search queries respectively to each of a set of Web database sites for data related to attributes of a selected product; and
- d. sending said search queries to said Web database sites responsive to a selection of a product wherein a purchase profile of the product.

Ng discloses downloading a special scout browser with optimization functions at receiving station (col 15, lines 61-63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Ng, with the means for storing the search queries at the receiving station since it was known in the art that storing information at the receiving station is used to provide an optimization of the retrieval of the information on a network by locally caching the information.

Furthermore, Ng discloses the feature of iteratively displaying the search queries (col 11, lines 2-20) and the use automatically retrieving information (col 6, lines 52-62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Ng, with automatically sending the search queries upon selection of a product since it was known in the art that storing information

at the receiving station is used to provide an optimization of the retrieval of the information on a network and enhance the web browsing experience of the users.

Claim 9: Ng discloses the method for buying products of claim 7 wherein one of said search queries is sent to a database Web site providing data on the quality of the Web sites offering products (col 8, lines 64-67 and col 10, lines 2-47).

Claim 10: Ng discloses the method for buying products of claim 7 wherein one of said search queries is sent to a database Web site providing data on the quality of the selected product (col 17, lines 57-67 and col 18, lines 1-34).

Claim 11: Ng discloses the method for buying products of claim 7 wherein one of said search queries is sent to a database Web site providing data on the comparative price of the selected product at a plurality of Web sites offering the product (col 5, lines 27-34; col 6, lines 64-67; col 7, line 1 and col 7, line 15-21).

Claim 13 describes a computer program having a code recorded on a computer readable medium of claims 1 and 7; therefore, the prior arts of Ng as set forth above in claims 1 and 7 are relied upon to reject claim 13 (*cf.* claims 1 and 7 above).

Claim 15 describes a computer program having a code recorded on a computer readable medium of claims 3 and 9; therefore, the prior arts of Ng as set forth above in claims 3 and 9 are relied upon to reject claim 15 (*cf.* claims 3 and 9 above).

Claim 16 describes a computer program having a code recorded on a computer readable medium of claims 4 and 10; therefore, the prior arts of Ng as set forth above in claims 4 and 10 are relied upon to reject claim 16 (*cf.* claims 4 and 10 above).

Claim 17 describes a computer program having a code recorded on a computer readable medium of claims 5 and 11; therefore, the prior arts of Ng as set forth above in claims 5 and 11 are relied upon to reject claim 17 (*cf.* claims 5 and 11 above).

Claim 19: Ng discloses the computer program of claim 13 wherein said Web browser program further includes a plug-in program including:

- a. said means for storing a set of predetermined search queries respectively to each of a set of Web database sites for data related to attributes of a selected product (col 9, lines 53-65; col 11, lines 20-21 and col 11, lines 55-59); and
- b. said means responsive to a selection of a product for automatically sending said search queries to said Web database sites (col 3, lines 44-49; col 8, lines 36-45; col 11, lines 2-20 and col 15, lines 25-30).

Ng discloses the feature of iteratively displaying the search queries (col 11, lines 2-20) and the use automatically retrieving information (col 6, lines 52-62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Ng, with automatically sending the search queries upon selection of a product since it was known in the art that storing information at the receiving station is used to provide an optimization of the retrieval of the information on a network and enhance the web browsing experience of the users.

Claim 20: Ng discloses the computer program of claim 19 further including:

- a. means for adding or deleting predetermined search queries to said set of queries (col 9, lines 53-69 and Figs 3 and 7); and

- b. means for adding or deleting Web database sites to said set of Web database sites (col 5, lines 34-43 and Fig 3).

#### **(10) Response to Argument**

##### **Appellants' Arguments:**

Appellants argue that claims 19 and 20 are not unclear since the plug in feature is known and functionally understood in the art (page 8).

Regarding claims 1, 3-5, 7, 9-11, 13, 15-17 and 19-20, Appellants argue that the Ng reference does not teach the features of storing a set of predetermined search queries respectively to each of a set of Web database sites for data related to attributes of a selected product, or for automatically sending these predetermined search queries to Web database sites to obtain an attribute profile of the purchaser selected product (pages 9 et seq.). Especially, Appellants argue that the shopping scout and database storage features in the Ng reference are not commensurate to Appellants' means for storage and search queries - Ng's queries are not predetermined and are not responsive to a product selection (pages 10 and 11). Furthermore, Appellants argue that the specific points that the feature of a "profile of the purchaser selected product" is pertinent to the instant claim 1 (pages 11-12) and the feature of "automatically sending" a query would not have been obvious to a skilled artisan (page 12).

##### **Examiner's Response:**

At the onset, the examiner points out that that claims 19 and 20 were previously rejected under 112(2) because of lack of antecedent basis (claim 19 was dependent on cancelled claim 18 - this issue has been remedied in the instant amended claim 19 being now dependent on claim 13). Furthermore, the examiner notes that the means for storing and means for sending a query were identical to the means of claim 13 with the exception that a plug-in program is

included in the preamble of claim 19 "The computer program of claim 13 wherein said Web browser program further includes a plug-in program" - it is unclear if the plug in is now the means for the storage and query features or if these features are performed by the means of claim 13 with an additional plug in present.

Regarding 1, 3-5, 7, 9-11, 13, 15-17 and 19-20, the examiner points out that the Ng reference discloses

- (a) "means at a receiving display station for displaying a Web page accessed from a Web site" by teaching a network environment such as the Internet (col 3, lines 45-49) and a GUI (Graphical User Interface) and browser to access the webpages (col 6, lines 20-30);
- (b) "means for selecting a product offered for sale from said Web page" by teaching the user/bot collecting information such as URL, price, types and model of specific product at various websites (col 5, lines 10-14 and 44-54; col 6, lines 20-36);
- (c) "means for storing at said receiving station, a set of predetermined search queries respectively to each of a set of Web database sites for data related to attributes of a selected product" by teaching a database to store the collected information (col 5, lines 10-20 and col 6, line 64 to col 7, line 30);
- (d) "means responsive to a selection of a product for automatically sending said search queries to said Web database sites to thereby provide a purchase profile of the product" by teaching that the database is searchable via inputs by a user and that automated data acquirer, bots and shopping scouts constantly update the information in the database via searches for the products (col 8, lines 33-49, col 11, line 60 to col 12, line 2 and col 12, lines 56-65).

The key differences between the Ng reference and Appellants' inventions are the features of (i) the location of the storage - the storage resides at the receiving station (Appellants) versus at a server (Ng reference) - and (ii) the automated query. Regarding the

storage location, it would have been obvious to a skilled artisan in the field of computer engineering at the time of the invention to devise a network architecture in which the database is location dependent to gain the benefits of localized adaptation (e.g. increased security, reliability and speed). This feature is suggested by the Ng reference via the option to allow "users to download a special shopping scout's browser which can optimize for ease of use, efficiency, and capabilities" (col 15, lines 61-63). Furthermore, it is noted that caching of websites is well known in the art. Regarding the automated query, the examiner notes that the database includes "predetermined searches" - the searches performed by the first user/scouts/bots - and that the Ng reference is teaching achieving the most up to date information such as price changes based on the end of a sale and expired WebPages via the automated queries - automated data acquirer, bots and shopping scouts. It would have been obvious to a skilled artisan in the field of computer engineering at the time of the invention to devise an automated feature that is time dependent and responsive to a product selection to gain the benefits of having the most recent and relevant information prior to purchasing a product such as finding the best deal (col 13, line 50). In particular, triggering a database refresh of the selected product by a second user would have been well within the purview a skilled artisan. All of these would be accomplished with no unpredictable results.

Regarding the ambiguity of "attribute of the purchaser selected product" vs. "purchase profile of the product", the examiner notes the inconsistency stems from the fact that a purchaser is not mentioned in claim 1 - only "a purchase profile of the product" which is taught by Ng via the prices, URL, model information.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/T. V. N./  
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/Eric W. Stamber/  
Supervisory Patent Examiner, Art Unit 3622

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